

**CITY OF NEW BRUNSWICK
PLANNING BOARD
NOVEMBER 18, 2014
MINUTES
7:30 p.m.**

I. ROLL CALL

X	Suzanne Ludwig
X	Linda Hunter
	David Fitzhenry
X	Joseph Catanese
x	Jeff Crum
x	Carly Neubauer
X	Clary Barber (Class I)
	Kevin Jones (Class II)
	Betsy Garlatti (Class III)
x	Josepha Rojas(Alternate #1)
	Andy Kaplan (Alternate #2)

Staff Attending:

x	Board Attorney Aravind Aithal
x	Board Secretary/Director of Planning Glenn Patterson
x	Principal Planner Mark Siegle
	Board Planner Henry Bignell
x	Board Planner Todd Bletcher
x	Board Engineer Tom Guldin
	Conflict Engineer Chas. Carlie

II. PUBLIC ANNOUNCEMENT (OPEN PUBLIC MEETING ACT)

III. SALUTE TO THE FLAG

IV. MINUTES OF THE BOARDS OCTOBER 14, 2014 MEETING

Motion to Approve: Hunter

Second: Barber

Approved by unanimous voice vote

V. COMMUNICATIONS AND REPORTS
Resolutions of Memorialization

A. None.

VI. OLD BUSINESS

A. CONSTRUCTION MANAGEMENT ASSOCIATES, PB-2013-25, Site plan and variance application for the construction of a residential building located at 17 Mine Street, Block 71 Lot: 4.01, Zoning District: R-5A and Redevelopment Area 2
Continuation of the hearing from October 14, 2014

Mr. Patterson stated that new testimony would not be taken after 10:30 PM as was the case in the last hearing.

Preliminary matters: Mr. MacArthur asked that the NJDEP letter that was read at the last meeting be entered into the record. Mr. Aithal said the letter (Exhibit O-1) could be entered. Mr. Kelso said he did not object.

Mr. Kelso said he had completed the applicant's testimony but they wanted to introduce a May 2014 letter from NJDCA to the City regarding RSIS standards, submission of variations and exceptions and the intention of local reviews to have flexibility about parking standards. He read the letter into the record. It was entered as Exhibit A-11.

Mr. Kelso noted that the City's parking standard was based on the RSIS standard and that the State intended to allow for flexibility to these standards based on local conditions. Mr. Aithal and Mr. Patterson further discussed that the RSIS standards are State-wide standards and the law allows for flexibility if local conditions warrant.

Mr. Kratovil objected to the procedure of taking nearby property owners first. Mr. Patterson and Mr. Aithal cited a court case supporting this and noted that no one was being disenfranchised from commenting. The objection was noted.

Nancy Beardsley, 35 Mine Street – She stated that parking in the neighborhood was a problem with crowded on-street parking conditions currently. There is difficulty getting out of her driveway and onto Easton and College Avenues. She feels the increased traffic flow will make the street less safe. She is concerned the project will devalue her property value.

She is also concerned with vibrations from heavy equipment during construction damaging foundations.

Will the proposed water and sewer improvements impact water pressure in the neighborhood? How fast will water leave the detention basins and where does it go?

These are to be full apartments, not dormitories. The downtown grocery store has closed. Will these residents use cars to get to the food store?

Has there been an archeological study of the area and if so, what has been found?

Ezra Newcome, Mine Street – the current vacant lot is dimly lit and the proposed project will provide lighting and activity to make the neighborhood feel safer. The development will cause the property to be taken care of better. Many houses in the neighborhood are not well taken care of and this will raise standards in the neighborhood.

Sameuel Seunfrund – He supports the project. Many friends in the area feel the housing in the area is inadequate and this project will provide quality housing.

Kevin O’Neill – He is the father of Jennifer O’Neill, of 15 Mine Street. He stated he had read local ordinances and plans and feels the application should be denied.

The parcel was designated in 2012 for housing for the Seminary and Hillel (Exhibit O-2, Site Plan Schematic Drawing). The exhibit is an exhibit submitted as part of Devco’s transit hub tax credit. Mr. Kelso objected to the use of the exhibit. Mr. O’Neill stated Rutgers authorized the sale to Devco to go ahead with the belief that the site was to be used for the seminary and Hillel.

Exhibit O-3 UTHTC narrative (Mr. Kelso objected to its use). Mr. O’Neill read the narrative, which said the site was to be for seminary and Hillel housing. Mr. Kelso objected and said the uses changed since that time and the proper updates were made to allow this. Mr. Kelso said the UTHTC application Mr. O’Neill referred to was submitted by a third party, not by the applicant, and is not relevant. Mr. MacArthur stated that he objected to the objection. Mr. Aithal said this was not procedurally proper at this time.

Mr. O’Neill said what he read made sense, i.e., making the Catholic Center the Jewish Center with townhouses. He said the 17 Mine parcel was zoned R-5A for 1 and 2 family housing. However, this use has disappeared. He said neither the Seminary or Hillel has expressed an interest in this lot and it is not needed for the redevelopment of the area. What happened to the townhouses and condos? A four-story building has been proposed instead and the applicant doesn’t have an agreement with the Seminary for housing. Devco has confirmed that the Seminary already has 5 off-campus housing units. This project is not Seminary

housing. The applicant is using the seminary to lower the parking standard from 96 to 52.

The current proposal doesn't make sense and is not similar to the original concept. The applicant needs to come up with a minimum of 96 parking spaces. Mr. Olivo's testimony that 43 spaces are adequate is not supported. Two of the spaces are for handicapped parkers and one is for car share. The project should be returned to the original townhouse use as four-storey housing is not appropriate and the planned parking is not adequate and 96 spaces should be mandated.

Mr. Kelso objected to the relevance to the testimony related to the Devco application. He stated his client is the designated redeveloper by the city's redevelopment agency.

Anthony Larabino, Jefferson Avenue – It is reprehensible that the properties have been allowed to fall into such disrepair and CMA should maintain them better. The buildings have been cited by the City for numerous violations.

The plans proposed do not match the character of the street nor are they an iconic style. They are bland. CMA has four bland properties on nearby Union Street that replaced older houses with character. The proposed building takes up nearly the entire lot and is imposing. It is very close to the adjoining properties and to the sidewalk. The project is planned to be as big as possible in order to make the most money and this is detrimental to the neighborhood. He feels they can make money with a smaller building. The existing buildings should be saved with a 3rd building added to the site. At the least, the project should match the style of the street.

The argument that public transportation access allows for less parking does not hold up. As an earlier commenter stated, there is no nearby supermarket. There will be more traffic and the parking situation will worsen. There is no comprehensive public transportation system with access to a food store.

Rutgers is also planning on putting a parking deck on Mine Street. This is a bad idea due to the street's narrowness. The deck in combination with this housing will make the street a nightmare. The Board should deny the application and send CMA back to the drawing board.

David Keil, he is a North Brunswick resident but visits the Mine Street area often. He is concerned with the project and the number of parking spaces provided. The area already has parking problems and the project will exacerbate this problem. He stated that driving should be discouraged by providing nearby resources such as food stores, not by denying them access to parking. Popular supermarkets are more than a mile from the site. Most tenants will need cars to access stores, healthcare and friends. Will tenants denied access to on-street

parking rebel against these restrictions and get them overturned? The variance should be denied.

Charles Kratovil: He stated has lived in New Brunswick for 10 years and has been involved in the community. Mr. Kratovil asked about Mr. Crum's appointment and procedure. Mr. Aithal described the procedure.

Has the application been reviewed by the TAC. Mr. Patterson stated that they had. He asked if the Planning Board Attorney had been present. It was stated that he had not. Mr. Kratovil said Mr. Bucca's involvement taint's this application. Mr. Kratovil said the Board Attorney, Mr. Aithal, had said this was a new application, but it has the same application number. There is no new application filed, just an update. Mr. Patterson said this was an updated application with a de novo hearing. Mr. Aithal said this plan is an update with a revised plan that has not been heard by the Board. Mr. Kratovil asked if the plan had not been on the Board's agenda in August. Mr. Aithal said that the Board has started the hearing over.

Mr. Kratovil asked if new fees had been paid. Mr. Siegle said fees were paid in November 2013. Mr. Kratovil said a short public hearing was held in August on these plans when Mr. Bucca was still the attorney and this application is therefore tainted.

Mr. Kelso said that Mr. Bucca's participation doesn't taint the Board as the applicant has started the application over from the beginning as of the October meeting. The August hearing had no testimony taken due to Mr. Kratovil's objections about occupancy of the hearing room. All testimony has been done anew and Mr. Bucca has not participated in any TAC reviews.

Mr. Catanese said he did not recall any substantive involvement by Mr. Bucca and that the taint issue has already been addressed at the October meeting. Chair Ludwig agreed.

Mr. Kratovil asked Mr. Catanese if he was the Mayor's campaign treasurer. Mr. Catanese said yes, that is public record.

Mr. Aithal said that these questions are procedural and this time is for comments on the applications. He suggested that other comments could be taken and Mr. Kratovil could lodge his objections after those comments have been received. Mr. Kratovil objected to the suggestion. Chair Ludwig said Mr. Kratovil could proceed.

Mr. Kratovil stated that Mr. Catanese was an official in the Mayor's campaign, which received campaign funds from the applicant, and Mr. Kelso is the Executive Director of the NB Democrats. He said this relationship should require one of them to recuse themselves.

Mr. Aithal stated that the connection was too tenuous to create a conflict. The conflict would need to be with the applicant and that it predisposes Mr. Catanese. Mr. Aithal said he had not heard this from Mr. Kratovil. Mr. Kratovil said funds are transferred from the organization to the campaign. Mr. Aithal again asked how was the applicant in conflict with Mr. Catanese? Mr. Kratovil said the applicant hired Mr. Kelso and this connects Mr. Kelso to Mr. Catanese.

Mr. Kratovil also objected to Ms. Ludwig's position as a Democrat committeeperson, which committee elects Mr. Kelso as Executive Director. He also said Ms. Barber was paid for campaign work and she is tainted.

Mr. Kratovil said Ms. Neubauer has not participated with the Environmental Commission and this doesn't meet the standard. He objects to her participation. Mr. Patterson stated that Mr. Crum has been appointed to the Environmental Commission as he has been the chair of the Green Team and has agreed to serve on both boards. Chair Ludwig noted the objection.

Mr. Kratovil objected to Mr. Aithal participation due to Mr. Aithal's position with Bob Smith and Associates as Mr. Smith is a Democrat State Senator.

Mr. Kratovil asked if Kevin Jones will be participating in the hearing? Ms. Ludwig said he will not be. Mr. Kratovil objected to Mr. Jones participation in the future due to his Housing Authority/Redevelopment Agency position.

Chair Ludwig asked if each objection had to be addressed. Mr. Aithal said there was no conflict due to being a member of the same political party as the applicant's attorney. The conflict needs to be with the applicant. Mr. Kelso does not vote and does not provide testimony. There is no direct conflict of interest in his opinion. He said the Board previously addressed the conflict objection about him at the October meeting.

Mr. Kratovil objects to Mr. Kelso's participation as he is County Counsel and the meeting is being held in the County Freeholder's Room. The project could have an impact on Easton Ave and this a County road. The objection was noted by the Chair.

Mr. Kratovil said he received a brochure in September 2013 that referenced this site for Seminary and Hillel housing. Does the applicant have contract relationship with either of those organizations? Mr. Kelso said the expectation is that Seminary housing will be provided here but a lease is not signed yet. Mr. Kratovil said it was misleading to call this seminary housing as that may never happen. He said only 10 of 52 units are for the Seminary and there is no contract for this. The Board should keep in mind that this could be 52 units of private housing.

Mr. Kratovil said he had concerns about the parking. He said Mr. Olivo testified that Mine Street on-street parking was at 100% capacity. Mr. Olivo stated that it was at capacity but that he believed no on-street spaces would be lost. Mr. Kratovil expressed skepticism at this. Mr. Olivo stated that the project does not need on-street parking to satisfy the parking demand. Mr. Kratovil asked if 2 spaces were restricted to handicapped drivers. Olivo said yes, as required by federal law. Mr. Kratovil asked if a car share space was to be provided. Mr. Olivo said yes, and that car share has the effect of reducing car ownership. Mr. Olivo said this addresses the comments of others tonight who talked about the need for car access. Car share could provide the equivalent of up to 15 parking space capacity.

Mr. Kratovil said the occupancy of the building could be 132 persons and they would share one car. Mr. Olivo said the applicant said an additional car could be provided for sharing. Mr. Kratovil felt this was inadequate.

Mr. Kratovil said he was concerned about safety in the area and for those parking in the underground garage, which would not restrict access to anyone walking into it. He said the security cameras will not be monitored.

Mr. Kratovil said the parking variance is worth \$1 million to the developer. They should provide the required number of parking spaces. Residents are likely to have cars. The transit system is not as robust as described, especially in the summer.

The properties have fallen into disrepair. The property should be brought up to code before an application is approved.

A 5 minute recess was taken.

The roll was retaken and all members were present.

Jane Keil, she is a friend of the objectors and has been to the site many times. She said the neighbors at 13 and 15 Mine Street are model neighbors who have quality properties that will be negatively affected, as will their quality of life.

Cassandra Oreveras: She objects to the application. She is friends of the objectors. She no longer recognizes the Rutgers campus from her undergraduate days 15 years ago when she had parking and space in New Brunswick. The neighbors have pristine gardens and the proposal is too large.

George Dawson – He is the chair of the New Brunswick Historical Association. He referenced the NJDEP letter that found Mine Street as eligible for historic district designation due to architectural distinction. Designation protects properties from encroachments by public entities. The Board should pay attention to the historic character

Anthony Larobina – He asked Mr. Olivo if the car share was restricted to building occupants or available to the public? Mr. Olivo said he believed it was limited to building residents. Mr. Broder said they had not contracted yet with Enterprise and that it could possibly be used by the public. Larobina asked how many bike stalls were there. Broder said 25 or 30.

Mr. Larobina said the public access to the car share raises security concerns. Mr. Broder responded that he had developed several properties with similar underground garages and they have not had problems with crime in the garages.

Mr. Larobina asked if there would be cameras. Broder said they have not experienced incidents in the garages. The garages have cameras and are well lit and they do not have security problems in them.

Mr. Larobina said he supported Mr. Dawson's comments and that the building imposed on the historic buildings on the street.

Glenn Ollendorf, he is concerned if the Board is following the criteria in law for reviewing the parking variance. He said the Board does not have power to grant a variance to allow less than adequate parking. Mr. Aithal said the Board has power to grant variances supported by the facts.

Ollendorf asked if the Board can grant any variance supported by the facts or does the law limit them? Mr. Aithal said he had answered the question.

Ollendorf made statements about past corruption of a former mayor John Lynch. The Chair ruled that this was not germane to the application. He continued on about perceived connections to the current mayor. Mr. Aithal eventually stated that the comments were not related to the application and the Chair asked him to confine himself to appropriate comments. She asked him to briefly make any connections he might have between his comments and this application. He brought up that George Zofinger is the Devco Chairman and this is a Devco project that was then transferred to CMA. He then tried to connect Zofinger to John Lynch. He also stated that Mr. Kelso was the supervisor of the County Prosecutor, who investigates corruption.

Mr. Aithal interjected that Mr. Ollendorf's objection seemed to be a jurisdictional objection that would disqualify all the Board members because of a relationship to John Lynch and through Mr. Kelso's job as County Counsel. Mr. Aithal said that the State and Federal justice systems also applied and therefore people oversaw Mr. Kelso. There is no significant connection between the application and John Lynch. The Chair noted that Mr. Ollendorf objected to Mr. Kelso's County job and representing the applicant.

Mr. Ollendorf stated the application is a relentless assault on the middle class in the 6th ward. He said you can't buy reasonably priced groceries due to a lack of

parking. The students can't keep up with the financial pressures of college. Not having adequate parking limits career and academic opportunities.

The applicant is applying the wrong standards for the granting of a parking variance. The RSIS standards are what control and they have ignored the criteria.

Ollendorf asked the price for renting a parking space. Broder said it was \$75 per month per space and that students have rented these spaces. Ollendorf said the required number of spaces should be provided. He said the variance allowed the developer to spend less money to his benefit. He asked if there was evidence that the variance would create lower rents. Broder said he has experience building properties similar to this one and they are successfully rented.

He asked if there was evidence of the number of students who could not complete their education because they could not rent parking spaces in his other buildings. Kelso objected to the question and was upheld by the Chair.

He asked about the increase in the cost of living in the 6th ward. Kelso objected and was upheld.

Kelso asked if Mr. Ollendorf owned property in New Brunswick. He said he did not. Ollendorf said he'd like other housing but couldn't get a parking permit for on-street parking in some buildings and couldn't get a space in the garage due to capacity constraints.

Ollendorf also complained that he was told that a handicapped person could not visit some of Broder's properties due to a lack of access.

Ollendorf said Olivo had read statements about the State parking standards that need to be followed. Mr. Catanese asked if this was testimony from the October or November meeting. Ollendorf said it was from Olivo's February submission. Mr. Catanese said he was concerned about contamination from the earlier hearings. Mr. Ollendorf cited NJAC 5:21-3.1 "Exceptions" and read the code related the standards for granting de minimus exceptions.

Mr. Kelso said if the Board was to consider this, the Board has to consider all of the RSIS standards.

As the time was now 10:35, the Chair said no additional testimony would be taken and the meeting would be adjourned until Dec. 9 at 7:30 PM in the Freeholder Meeting Room.

Motion to Adjourn: Mr. Catanese

Second: Ms. Barber

Approved unanimously.